

BUDGET COMMITTEES COMPLETE DELIBERATIONS – SPLIT ON NEW COURT-RELATED FEES

The Budget committees of the two houses of the Legislature completed their deliberations this week, approving diverse state spending plans to be sent to the floors of the respective houses and setting the stage for a two-house conference committee to begin its deliberations next week.

How the spending plans will get to conference is anyone's guess, however. If recent history is any indicator, neither of the "official" budget bills introduced this year – [AB 100](#) by Assembly Budget Committee Chair [Jenny Oropeza](#) (D-Long Beach) or [SB 53](#) by Senate Budget Committee Chair [Wes Chesbro](#) (D-Arcata) – will be able to garner the two-thirds votes needed to move them along when they are taken up in their respective houses on Monday. In that case, an as-yet-unidentified bill will be amended to become a majority-vote vehicle to get the Budget into a two-house conference committee.

With respect to the budget for the state's Judiciary, both budget committees approved the bulk of the plan crafted by Senator [Joseph Dunn](#) (D-Santa Ana), Chair of the Senate's Budget Subcommittee #4 on State Administration. This proposal reduces the trial court funding reductions proposed in the Governor's [May Revision budget](#) from \$116 million to \$85 million, and the proposed funding reduction for the appellate courts, Administrative Office of the Courts (AOC), and Habeas Corpus Resource Center from \$17.7 million to \$8.5 million. Both committees also rejected controversial proposed statutory initiatives to open up contract bidding for court security services and mandate electronic court reporting in many cases, making up the \$58.5 million in alleged savings from the General Fund.

Where the Senate and Assembly budget proposals relating to courts differ is in the area of court-related fees. The Senate version includes a series of increases in these fees, each of which is designed to help reduce the need for state General Fund support of the courts. These so-called "fees for service" would be used to supplant an estimated \$70 million in General Fund dollars. The Assembly Budget Committee rejected the fee proposals, however, making their status an open question. The fees proposed by the Senate are far-reaching and include:

- Appellate Court Filing Fee Increases:
 - Increase Appellate Court Filing Fee from \$265 to \$420, plus \$65 for the State Library

- Increase Supreme Court Filing Fee to \$420
- Increase deposits for transcripts in the Courts of Appeal from \$100 to \$270
- Increase the filing fee for limited jurisdiction cases over \$10,000 to \$185
- Increase the Small Claims Fee from \$35 to \$60 for filers of more than 12 cases per year
- Increase the Summary Judgment Motion Fee from \$100 to \$150
- Implement a new Continuance Fee of \$50 for all civil and family law cases
- Increase the fee for all trial court motions (excluding motions for summary Judgment) by \$10, from \$23 to \$33
- Implement a new Court Security Fee of \$20 to be levied on civil filings and criminal fines

In normal years, only items of disagreement between the two houses would be subject to consideration by the budget conference committee – meaning that only the fee proposals would be at issue and the remainder of the Judiciary's budget would not. However, given the gravity of this year's budgetary woes, we could well see an "open" budget conference committee, where all issues – including the Judiciary's budget – are on the table.

FISCAL COMMITTEES SHELVE BOND MEASURES

In light of California's uncertain financial status and the questionable wisdom of increasing the current debt load, the Appropriations committees of both the Assembly and Senate this week shelved all bills proposing to fund public projects – including the state's courts – through the sale of bonds.

The Assembly Appropriations Committee Wednesday held in committee bond measures proposing to generate billions of dollars for the support of such things as libraries, seismic safety, and air and water quality. On Thursday, the Senate Appropriations Committee followed suit with its own list of bond bills.

Topping the latter list was [SB 655](#) by Senate Judiciary Committee Chair [Martha Escutia](#) (D-Whittier), the Judicial Council-sponsored Court Facilities Construction and Renovation Bond Act of 2004. The measure would ask the voters to approve the issuance of \$4.146 billion in General Obligation Bond Funds to be used for the state's courts.

Assembly Appropriations Committee Chair [Darrell Steinberg](#) (D-Sacramento) noted in a [story](#) in the

Sacramento Bee that he generally agrees with the notion of letting the voters decide. "But in this instance," Steinberg said, "every additional bond proposal will result in the general fund having to pay additional debt service. "

The committees' actions will not affect any bond measures that already have qualified for the 2004 ballot.

TREVOR GROUP ATTORNEYS SEEK TO ENJOIN SUSPENSION IN FEDERAL COURT

The three attorneys of the Trevor Law Group who were suspended last week from practicing law by the State Bar Court for misusing the state's Unfair Competition Law (B&P §17200 et seq.) have asked a federal court to enjoin their suspension. The attorneys claim that the [decision](#) by State Bar Court Judge Richard Honn placing them on involuntary inactive status violated their constitutional right to practice law, as well as their First Amendment right to file lawsuits on behalf of their clients.

The Bar is opposing this attempt to circumvent the disciplinary process. Federal law prohibits federal courts from interfering in ongoing state proceedings, including State Bar disciplinary proceedings. The Trevor Group attorneys can appeal the suspension to the State Bar Court's review department, and from there to the California Supreme Court.

State Bar Chief Assistant General Counsel Larry Yee said that U.S. District Judge Audrey Collins can decide on the order without a hearing, and that he expects her to rule soon.

The Trevor Law Group attorneys' actions sparked the introduction of eleven separate bills to amend the Unfair Competition Law. The only two of those measures still under consideration by the Legislature -- [AB 95](#) by Assembly Judiciary Committee Chair [Ellen Corbett](#) (D-San Leandro) and [SB 122](#), by Senate Judiciary Committee Chair [Martha Escutia](#) (D-Whittier) -- will be heard next week by the full Assembly and Senate, respectively.

DAVIS RECALL GETTING SERIOUS

The effort to recall Governor Davis has heated up significantly during the past 10 days. Signature gatherers abound in shopping malls and in front of supermarkets. And this week a member of Davis's cabinet took a leave of absence to lead the anti-recall campaign.

Several Democrat and Republican strategists contend that the recall petition will qualify. Other political "insiders" are doubtful, since almost 900,000 registered voters' signatures are needed for qualification. (Note: Although there are two separate organizations behind the recall, the Secretary of State's office advises that only one petition has been certified and is being used by both "campaigns" -- meaning that all signatures can be aggregated.)

Because it's very easy to run for governor if the recall petition qualifies for the ballot (a \$3,500 filing fee, the signatures of at least 65 registered voters on your nomination paper, and you're a candidate!), numerous names are mentioned as possible candidates. Democrats most often mentioned are Attorney General Bill Lockyer, Lt. Governor Cruz Bustamante, Senate President Pro Tempore John Burton (San Francisco), Treasurer Phil Angelides, and U.S. Senator Dianne Feinstein. Republican candidates most often cited include Bill Simon (who lost to Davis in November), actor Arnold Schwarzenegger, former Los Angeles mayor Richard Riordan, state Senator Tom McClintock (Thousand Oaks), and U.S. Congressman Darrell Issa (Vista). The California Constitution prohibits Davis from being a candidate to succeed himself at the recall election.

If the voters chose to recall Governor Davis, the new governor will be whoever receives the most votes on the recall ballot -- a majority vote is not required, and there is no run-off. Under that scenario, it is quite possible that California could have a new governor elected by less than 10% of the state's 21.5 million eligible voters. Consider: In 2002, only 15.3 million of these eligible voters (71%) registered to vote for the November general election, and only 51% of these registered voters actually voted. This means that only 36% of the state's eligible voters voted in the last election. If turnout for the recall election is similar, and there are four or more gubernatorial candidates on the ballot who roughly split the vote, the winner could easily be elected by a very small percentage of the state's eligible voters.

The "gathering period" for recall petition signatures ends on September 2, 2003. If enough signatures are collected, the Lt. Governor must call for a recall election, possibly before the end of the year. If a majority of the voters vote to recall, the new governor would take office within 40 days of the election, and would serve out the remainder of Governor Davis's term.